

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

FRANK B. PADIA,
Petitioner Employee,

v.

THE INDUSTRIAL COMMISSION OF ARIZONA,
Respondent,

AMAZON.COM,
Respondent Employer,

SEDGWICK CLAIMS MANAGEMENT SERVICES, INC.,
Respondent Insurer.

No. 2 CA-IC 2015-0001
Filed July 31, 2015

THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
NOT FOR PUBLICATION
See Ariz. R. Sup. Ct. 111(c); Ariz. R. Civ. App. P. 28(c).

Special Action - Industrial Commission
ICA Claim No. 20141-120117
Insurer No. 30142035707-0001
The Honorable LuAnn Haley,
Administrative Law Judge

AFFIRMED

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COUNSEL

Frank B. Padia, Tucson
In Propria Persona

The Industrial Commission of Arizona, Phoenix
By Andrew F. Wade
Counsel for Respondent

Jardine Baker Hickman & Houston, P.L.L.C., Phoenix
By Scott Houston and Rae Richardson
Counsel for Respondents Employer and Insurer

MEMORANDUM DECISION

Presiding Judge Miller authored the decision of the Court, in which Chief Judge Eckerstrom and Judge Espinosa concurred.

M I L L E R, Presiding Judge:

¶1 In his statutory petition for special action, petitioner Frank Padia challenges the administrative law judge's (ALJ) award denying compensation for his arm injury and decision upon review affirming the award. He argues that his injury was causally connected to his employment or, alternatively, that he is eligible for compensation benefits because the symptoms first appeared while he was employed. For the following reasons, we affirm.

Factual and Procedural Background

¶2 We consider the evidence in the light most favorable to upholding the award. *City of Tucson v. Indus. Comm'n*, 236 Ariz. 52, ¶ 2, 335 P.3d 1131, 1133 (App. 2014). In March 2014, Padia was working as a stocker at an Amazon.com warehouse. During that time period, he developed numbness in his right hand. He was

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diagnosed with cubital tunnel syndrome and Guyon canal compression, and underwent surgery to decompress his right ulnar nerve. He filed a claim for compensation.

¶3 Dr. Paul Guidera, a hand surgeon, performed an independent medical examination (IME). He concluded Padia's condition was possibly related to a chronic nerve condition, and found "no data that would support a relationship between [his condition] and his employment at Amazon.com." Amazon.com denied Padia's claim, and he requested a hearing.

¶4 Padia filed no medical records at the hearing; therefore, the only medical evidence available to the ALJ was the IME report. The ALJ adopted the opinion of Dr. Guidera regarding medical causation and found Padia had not met his burden of proof. Padia requested review, attaching his medical records to his request. The ALJ reviewed the additional records and affirmed the award. This petition for special action followed.

Discussion

¶5 Padia's opening brief contains no citations to the record or authority, and he does not develop a specific argument other than to dispute the ALJ's conclusion that his injury was not causally related to his employment. Under Arizona law, Padia thus waives this argument on review. *See Polanco v. Indus. Comm'n*, 214 Ariz. 489, n.2, 154 P.3d 391, 393 n.2 (App. 2007) (issue mentioned in opening brief waived without citation to authority); *see also* Ariz. R. Civ. App. P. 13(a)(7)(A) (argument must contain "citations of legal authorities and appropriate references to the portions of the record on which the appellant relies").

¶6 Even were it not waived, however, Padia's argument would fail. The issue before the ALJ was medical causation. "To receive workers' compensation benefits, an injured employee must demonstrate both legal and medical causation." *Grammatico v. Indus. Comm'n*, 211 Ariz. 67, ¶ 19, 117 P.3d 786, 790 (2005) (en banc) (citation omitted). When the cause of an injury is not "clearly apparent to laymen," the claimant must provide expert medical testimony. *W. Bonded Prods. v. Indus. Comm'n*, 132 Ariz. 526, 527-28,

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647 P.2d 657, 658-59 (App. 1982). The cause of a nerve injury is typically not clearly apparent without expert knowledge. *See id.*

¶7 Padia provided no expert opinion supporting his claim that his injury was related to his employment. In the medical records he submitted with his request for review, his doctors did not note a cause of his injuries; indeed, the only references to Padia's employment were his doctors' notes of Padia's own statements.

¶8 Finally, to the extent Padia contends the initial appearance of his symptoms at the same time he was employed at Amazon.com makes him eligible for compensation, he is mistaken. *See* A.R.S. § 23-1021 (to be compensable, industrial injury must both "aris[e] out of" employment and occur in course of employment); *Ortiz v. Clinton*, 187 Ariz. 294, 296, 928 P.2d 718, 720 (App. 1996) ("arising out of" requirement refers to origin or cause of injury, while "in the course of" refers to time, place, and circumstances of accident in relation to employment). Based on the record before the ALJ, we conclude it did not err in determining Padia had failed to establish medical causation and is not eligible for compensation.

Disposition

¶9 For the foregoing reasons, the ALJ's award and decision upon review are affirmed.